



ENVIRONMENTAL PROTECTION AGENCY

FRL-9965-72-Region 2

Clean Water Act Section 303(d): Availability of List Decisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for comments.

SUMMARY: This notice announces EPA's proposed decision to identify certain water quality limited waters and the associated pollutant to be listed, pursuant to Clean Water Act (CWA) Section 303(d)(2), on New York's list of impaired waters, and requests public comment. Section 303(d)(2) of the CWA and EPA's implementing regulations require States to submit, and EPA to approve or disapprove, lists of waters for which technology-based and other controls are not stringent enough to attain or maintain State water quality standards and for which total maximum daily loads (TMDLs) must be established. States are required to establish a priority ranking for waters on the list and to identify waters targeted for TMDL development over the next two years.

New York submitted its 2016 CWA Section 303(d) list (2016 303(d) list) to EPA in correspondence dated December 21, 2016. On July 21, 2017, EPA partially approved and partially disapproved New York's 2016 303(d) list. Specifically, EPA approved New York's 2016 303(d) list with respect to the 792 waterbody/pollutant combinations requiring TMDLs that New York included on its list, the State's priority ranking for these waterbody/pollutant combinations and the waterbody/pollutant combinations targeted for TMDL/Restoration Strategy development in 2017. However, EPA disapproved New York's 2016 303(d) list because EPA determined that it does not include seventy-one waterbody/pollutant combinations that meet

CWA Section 303(d) listing requirements.

For a detailed explanation of EPA's partial approval/partial disapproval, please refer to EPA's Support Document (<https://www.epa.gov/tmdl/new-york-impaired-waters-list>). EPA is providing the public the opportunity to review its proposed decision to add these seventy-one waterbody/pollutant combinations to New York's 2016 303(d) list. EPA will consider public comments before transmitting its final listing decision to the State.

DATES: Comments must be submitted to EPA on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments on the proposed decision should be sent to Aimee Boucher, U.S. Environmental Protection Agency Region 2, 290 Broadway, New York, NY 10007, email boucher.aimee@epa.gov, telephone (212)-637-3837. Oral comments will not be considered. Copies of EPA's letter and support document regarding New York's list can be obtained by calling or emailing Ms. Boucher at the address above. Underlying documents from the administrative record for these decisions are available for public inspection at the above address. Please contact Ms. Boucher to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Aimee Boucher at (212) 637-3837 or at boucher.aimee@epa.gov.

SUPPLEMENTARY INFORMATION: EPA partially disapproved New York's 2016 303(d) list because EPA determined that it does not include seventy-one waterbody/pollutant combinations that meet CWA Section 303(d) listing requirements. These seventy-one waterbody/pollutant combinations include:

- (1) thirty-eight waterbody/pollutant combinations New York previously placed in Integrated Report Category 4b (i.e., impaired waters where a TMDL is not necessary because other

required controls will result in attainment of water quality standards within a reasonable period of time) without adequate justification;

(2) one waterbody/pollutant combination New York delisted from its 2014 303(d) list and moved to Integrated Report Category 4b without adequate justification;

(3) four waterbody/pollutant combinations New York delisted from its 2014 303(d) list without data or information indicating New York's applicable water quality standard for dissolved oxygen is met;

(4) twenty-six waterbody/pollutant combinations New York delisted from its 2014 303(d) list without data or information indicating New York's applicable narrative nutrients standard is met; and

(5) two waterbody/pollutant combinations New York did not include on its 2016 303(d) list where data or information indicate that New York's applicable water quality standard for dissolved oxygen is not met.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: July 27, 2017.

Catherine McCabe,

Acting Regional Administrator,

U.S. Environmental Protection Agency, Region 2.

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